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DISTRICT II

March 23, 2022

To:

Hon. Anthony G. Milisauskas
Circuit Court Judge
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
Electronic Notice

Michael D. Graveley
Electronic Notice

Daniel J. O'Brien
Electronic Notice

Julian J. Miller, #311897
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

You are hereby notified that the Court has entered the following opinion and order:

2019AP2084-CR	State of Wisconsin v. Julian J. Miller (L.C. #2009CF887)
2020AP1727-CR	State of Wisconsin v. Julian J. Miller (L.C. #2009CF887)

Before Gundrum, P.J., Neubauer and Grogan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

In these consolidated cases, Julian J. Miller appeals pro se from orders denying his motions for relief. He challenges the collection of funds from his prison account. Based upon our review of the briefs and records, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2019-20).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

In 2011, Miller was convicted of ten felonies including one count each of first-degree intentional homicide and attempted first-degree intentional homicide. The circuit court imposed a life sentence followed by a bifurcated sentence totaling 110 years. It also ordered Miller to pay restitution in the amount of \$178,046.27.

In 2019, Miller filed a motion to strike language in his judgment of conviction that authorized the department of corrections (DOC) to collect funds from his prison account for restitution. The circuit court held a hearing on the motion. It then issued an order denying the motion “for the reasons stated on the record at the hearing.” Miller filed an appeal without securing a transcript of the hearing.

In 2020, while Miller’s appeal was pending, he filed a motion to modify the percentage of funds that the DOC was deducting from his prison account for restitution. Again, the circuit court issued an order denying the motion. It noted that Miller had already appealed its decision regarding collection and declined to reconsider the matter. Miller filed another appeal, which we consolidated with his first appeal.

On appeal, Miller contends that the circuit court erred in denying his motions for relief. We reject his argument for multiple reasons.

First, as noted, Miller never secured a transcript of the hearing on which the circuit court’s first order was based. As the appellant, it is Miller’s responsibility to make sure that the record is complete and sufficient to support his claims. *State Bank of Hartland v. Arndt*, 129 Wis. 2d 411, 423, 385 N.W.2d 219 (Ct. App. 1986). “When an appeal is brought [on] an incomplete record, this court will assume that every fact essential to sustain the [circuit] court’s decision is supported by the record.” *Suburban State Bank v. Squires*, 145 Wis. 2d 445, 451,

427 N.W.2d 393 (Ct. App. 1988). Thus, without a transcript of the circuit court's reasoning, we will assume that it properly denied Miller's first motion for relief.

As for Miller's second motion for relief, we conclude that it was the wrong vehicle to challenge the DOC's action. Once a prison sentence is imposed, an inmate generally must address objections to the DOC's procedures, such as deductions made from prison accounts, through the inmate complaint review system. *See State v. Williams*, 2018 WI App 20, ¶¶1-5, 380 Wis. 2d 440, 909 N.W.2d 177. Only after all such available administrative remedies have been exhausted may the inmate then seek redress through the courts via a writ of certiorari. *Id.*, ¶¶4-5. Because Miller did not utilize nor exhaust his administrative remedies with the DOC, the circuit court had no competency to consider his motion. *Id.*, ¶1.

Upon the foregoing reasons,

IT IS ORDERED that the orders of the circuit court are summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals